IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.V.K.BALI

WEDNESDAY, THE 22ND NOVEMBER 2006 / 1ST AGRAHAYANA 1928

Crl.Rev.Pet.No. 445 of 1999()

CC.1/1998 of CHIEF JUDICIAL MAGISTRATE'S COURT, ALAPPUZHA
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REVN. PETITIONER/DFACTO COMPLAINANT

P.PEETHAMBARAN, SHEEJA BHAVAN,
C.M.C.XI, CHERTHALA.

BY ADV. SRI.S.P.ARAVINDAKSHAN PILLAY
SRI.V.VARGHESE

RESPONDENTS/ACCUSED & COMPLAINANT
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1. JEEVAN, SON OF SREEDHARAN,
PUTHUVEETTIL, C.M.C.XII, CHERTHALA.

2. STATE OF KERALA, REPRESENTED BY THE
SUB INSPECTOR OF POLICE, CHERTHALA
IN CRIME NO.432/91.

BY ADV. SRI.G.HARIHARAN
SI OF POLICE [PARTY]
R2 BY PUBLIC PROSECUTOR MR.P.RVINDRA BABU

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 22/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V.K. BALI, C.J.

Crl.R.P.No.445 of 1999

Dated, this the 22nd day of November, 2006

ORDER

V.K.Bali,C.J.(Oral)

This revision has been filed against the order dated 31st July, 1998 passed by the learned Chief Judicial Magistrate, Alappuzha discharging the accused who was tried for offence under Section 420 read with Section 34 of the Indian Penal Code. One of the accused after trial was acquitted earlier in point of time, but the accused, the first respondent herein, was tried later as he was absconding at the relevant time. The mere fact that the co-accused was acquitted after the trial may not be enough to discharge the first respondent herein as the evidence of one cannot be read into another. But there cannot be any exception to the finding recorded by the learned Chief Judicial Magistrate in the impugned order dated 31st July, 1998 discharging the respondent that mere dishonouring of the cheque alleged to have issued by him would not per se prove the offence under Section 420 of the Indian Penal Code. There was no other evidence that the intention was to cheat. There is no illegality or impropriety

in the order passed by the learned Magistrate discharging the accused. No merits. Dismissed.

V.K. BALI,
CHIEF JUSTICE.

vns